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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/780,738	02/19/2004	William Rose	R4925.0001/P001	3283
32172	7590	05/22/2006		
DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP 1177 AVENUE OF THE AMERICAS (6TH AVENUE) 41 ST FL. NEW YORK, NY 10036-2714			EXAMINER DAVIS, CASSANDRA HOPE	
			ART UNIT 3611	PAPER NUMBER

DATE MAILED: 05/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/780,738	ROSE ET AL.
Examiner	Art Unit	
Cassandra Davis	3611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on ____.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
 - 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) Claim(s) ____ is/are allowed.
- 6) Claim(s) 1-5,7-17,19 and 20 is/are rejected.
- 7) Claim(s) 6 and 18 is/are objected to.
- 8) Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 19 February 2004 is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. ____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Specification

1. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," "**The present invention,**" etc.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a) because they fail to show parallel lines 37, plurality of concentric circles 39, and phosphorescent pigment 42 as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on

the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

And

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1, 2, 3, 7, 13, and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Christy, U. S. Patent 3,443,332.

5. With respect to claims 1 and 13, Christy teaches a light-activated illuminating device comprising a support member 10 and a phosphorescent material 21 supported by the support member, wherein the support member 10 and the phosphorescent material 21 are so formed to provide a luminescent image that has a varying luminescent effect after the phosphorescent material is exposed to a light source 11.

6. With respect to claims 2, 3, and 19, Christy also teaches a light source in the form of pencil 11 adapted to emit a light beam 12.

7. Claims 1-5, 8-11, 13, 14, and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Harrison, U. S. Patent 2,654,971.

8. With respect to claims 1, 13, and 14, Harrison teaches a light-activated illuminating device comprising a support member 10 and a

phosphorescent material 11 supported by the support member, wherein the support member 10 and the phosphorescent material 21 are so formed to provide a luminescent image that has a varying luminescent effect after the phosphorescent material is exposed to a light source 20.

9. With respect to claims 2, 3, and 19, Harrison also teaches a light source 20 adapted to emit an ultra violet light beam. See column 4, lines 69-73.

10. With respect to claim 4, Harrison teaches the phosphorescent material is preferably in coarse granular form. See column 3, line 54-57; column 1, lines 52-55; and column 2, lines 21-24.

11. With respect to claim 5, Harrison teaches the phosphorescent material fills at least half of the container. See figure 2.

12. With respect to claims 8-11, Harrison teaches different areas may have different phosphorescent material for various colors, wherein each area corresponds to different sub-section. See column 3, lines 32-33 and lines 34-53.

13. With respect to claim 16, Harrison teaches applying a white paint 12 to completely block off the phosphorescent material so that it is invisible under ultra-violet light.

14. Claims 1-4, 7, 13, 14, 15, and 19 are rejected under 35 U.S.C. 102(e) as being anticipated by Yu et al., US 20040076460A1.

15. With respect to claims 1, 13, and 14, Yu teaches a light-activated illuminating device comprising a support member 319, 320, and 324 and a phosphorescent material 314 supported by the support member, wherein the support member and the phosphorescent material 314 are so formed to provide a luminescent image that has a varying luminescent effect after the phosphorescent material is exposed to a light source 20.

16. With respect to claims 2, 3, and 19, Yu also teaches a light source 20 having a LED 22 adapted to emit an ultra violet light beam. See paragraph 0013.

17. With respect to claim 4, Yu teaches the phosphorescent material is preferably in ferrite particulate 314 decorated with phosphor 316. See paragraph 0016.

18. With respect to claim 7, since the applicant does not positively recite the wall member being curved, the wall taught by Yu can be curved.

19. With respect to claim 15, Yu teaches a second and third light activated illuminating member 10 seen in figure 1 and 400 seen in figure 4.

Note: the applicant broadly recites a second light activated illuminating member but does not interconnect or relate to the first illuminating member.

20. Claims 1, 2, 3, 7, 13, 14 16, 17, 19, and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Mendelson, U. S. Patent 4,590,381.

21. With respect to claims 1, 2, 13, 14, Mendelson teaches a light-activated illuminating device 10 comprising a support member 12 and a phosphorescent material 18 supported by the support member, wherein the support member 11 and the phosphorescent material 18 are so formed to provide a luminescent image that has a varying luminescent effect after the material 18 is exposed to a light source/light pen 36.

22. With respect to claims 16-17, Mendelson also shield 30 for shielding phosphorescent material 18 from undesired exposure to light.

With respect to claims 3 and 19- 20, light source or pen light 36 taught by Mendelson comprises a plurality of tip 62. See column 6, lines 22-25 and figures 8-10.

Claim Rejections - 35 USC § 103

23. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

24. Claims 5 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yu et al.
25. With respect to claim 5, since the applicant does not disclose that having the container half-filled with the phosphorescent material solves any stated problem or is for any particular purpose, it appears that filling the container with enough phosphor cover particles to move within the container as taught by Yu would perform equally well.
26. With respect to claim 12, since the applicant does not disclose that strontium aluminate solves any stated problem or is for any particular purpose, it appears using any suitable phosphorescent material as taught by Yu would perform equally well.
27. Claims 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harrison. With respect to claim 12, since the applicant does not disclose that strontium aluminate solves any stated problem or is for any particular purpose, it appears using any suitable phosphorescent material as taught by Harrison would perform equally well.

Allowable Subject Matter

28. Claims 6 and 18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cassandra Davis whose telephone number is 571-272-6642. The examiner can normally be reached on Monday-Friday 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on 571-272-6651. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Cassandra Davis
Primary Examiner
Art Unit 3611

CD
February 20, 2006